

(3) (4)

e 1109

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

W.P. No. 1109 /2002

PETITIONER : Girdhari Lal Sarpey

Vs. *+*

- RESPONDENTS :
1. Ministry of Home Affairs
Central Industrial Security Force
 2. Commandent
C.I.S.F. Korba (C.G.)
 3. Dy. Commandent
CISF. Korba
 4. I.G.
CISF
H/Q-E/E Compound
Bori road, Patiputra
Patna, Bihar
 5. Chief Director
CISF, CGO Complex Lodhi Road
New Delhi.

P.R. No. 1110/2002
Presented by Shri A. L. Sarpey
dated 29.10.02



WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION
OF INDIA.

आदेश पत्रक

मामला क्रमांक W.P. 1109 सन् 2002

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>25.9.2006</u></p> <p>Smt.Renu Kochar, counsel for the petitioner. Shri Bhishma Kinger, counsel for the respondents. Arguments heard. Order dictated as follows :</p> <p style="text-align: center;"><u>ORAL ORDER</u> (29.9.2006)</p> <p>The petitioner, who was working as a Constable in C.I.S.F. Unit, N.T.P.C.Korba (CG), has challenged the legality of his punishment order as well as transfer order, filed as Annexures P-2 and P-3. As stated in the writ petition, the petitioner, vide the aforesaid order dated 23.5.2002, was transferred from C.I.S.F. Unit, N.T.P.C. Korba (CG) to NALCO Angul (Orissa). About the transfer, the only pleading taken in the writ petition is vide para 6.10, in which, it is mentioned that the petitioner was illegally and arbitrarily transferred to a distant and remote place in Orissa and the above transfer was only a part of foul play by the Commandant. It has further been pleaded that the order was passed without paying regard to the will of the petitioner and on these grounds, it is required to be quashed.</p> <p>So far as interference by the Court in a matter of transfer is concerned, the law is well settled. The apex Court while dealing with the matter of <u>Kendriya Vidya Sanghatan Vs. Damodar Prasad Pandey</u> reported in <u>2004 AIR SCW Pg.5563</u> referring to the various decisions has observed vide para 4 as follows :</p> <p style="text-align: center;">"Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be</p>	

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	<p>clearly arbitrary or visited by malafide or infraction of any prescribed norms of principles governing the transfer (See <i>Ambani Kanta Ray Vs. State of Orrisa</i>, 1995 (Suppl) 4 SCC 169). Unless the order of transfer is vitiated by malafide or is made in violation of operative guidelines, the Court cannot interfere with it. (See <i>Union of India Vs. S.L. Abbas</i>, AIR 1993 SC 2444). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by malafide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In <i>Union of India & others Vs. Janardan Debanath & anr.</i> (2004) 4 SCC 245 it was observed as follows:</p> <p>"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of malafide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in <i>National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan</i>, (2001) 8 SCC 574".</p>	

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<p><i>Sumita</i></p>	<p>Though, it is stated that the transfer was arbitrary, but it has not been pointed out as to how it is arbitrary and how it infringed the right of the petitioner. It has not been shown that it was a malafide transfer neither it has been shown that the same has been done against any policy governing the transfer.</p> <p>The petition so far as it relates to challenging the order of transfer, has no merit and the same is dismissed.</p> <p>So far as other relief, regarding the order passed by the disciplinary authority vide Annexure P-2 is concerned, admittedly this was an appealable order and an appeal could have been preferred against this order.</p> <p>Learned counsel for the petitioner submits that the petitioner would file an appeal against this order and she should be permitted to withdraw this petition, so far as relief No.1 in relation to this punishment order is concerned, with a liberty to file an appeal before the appellate authority.</p> <p>This prayer, concerned to relief No.1, is not opposed by learned counsel for Union of India. The same is allowed.</p> <p>The petition, so far as it relates to relief No.1 is dismissed as withdrawn with the aforesaid liberty granted in favour of the petitioner.</p> <p>The petition stands disposed of.</p>	<p>Sd/- Sunil Kumar Sinha Judge</p>

(पीछे देखिये)

Per
28/01/02
Sunil K Sinha
1/1/2002